



Shared Prosperity Dignified Life



UNITED NATIONS
UNCTAD



UNDERSTANDING COMPETITIVE NEUTRALITY

- Sharing international experiences and best practices -

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UNCTAD's mandate - Trade and Development



- ✓ UN body responsible for dealing with economic and sustainable development issues with a focus on trade, finance, investment and technology - *Prosperity for All*;
- ✓ 195 members;
- ✓ **Think, Debate, Deliver** - to assist developing countries better integrating in the global economy.

6 UNCTAD facts and figures

Promoting development



57

years

Membership



195

members States

Staff members



456+

Regular budget for 2020



68

million

Extrabudgetary expenditure



42

million

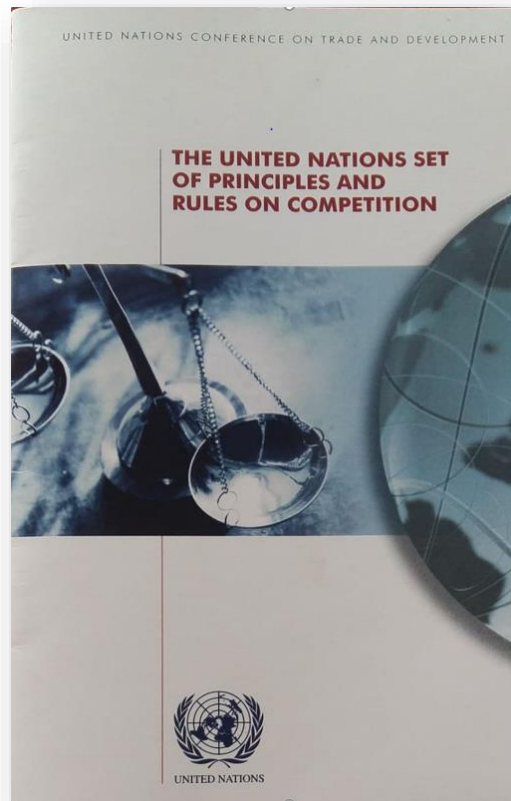
Projects



218

in 80 countries

UNCTAD's mandate on Competition law and policy

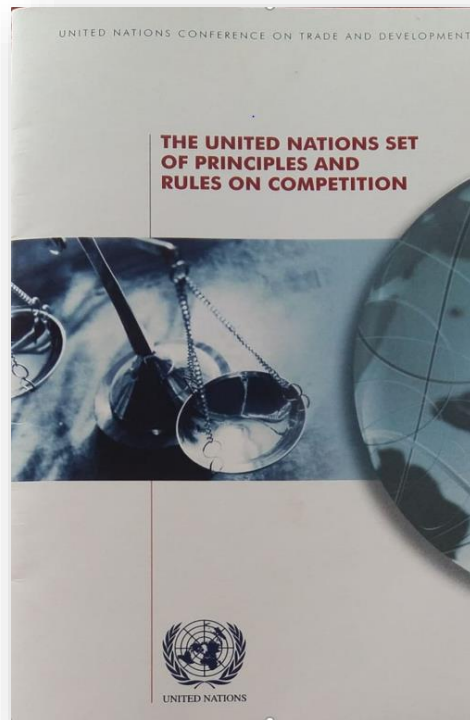


- ✓ **Focal point for Competition and Consumer Policies within the UN system**

The custodian of the UN Set of Principles and Rules on Competition (1980), the only internationally agreed instrument in the field of Competition

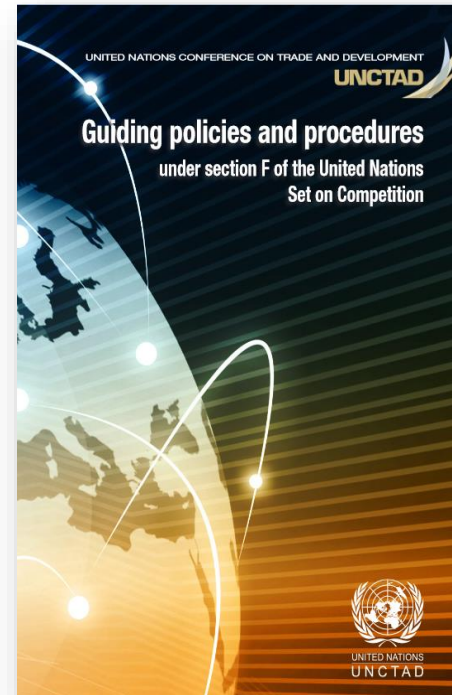
**- UN General Assembly Resolution 35/63,
5 December 1980 -**

- **Recognition of the positive contribution of Competition law and policy to promote economic growth and inclusive sustainable development (greater efficiency and encouragement of innovation).**
- **“Development dimension”:** reference to the Preferential or Differential Treatment for developing countries - according to their special circumstances.
- **Framework for international cooperation and exchange of best practices.**



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Under the UN Set Section F - “International measures”:

- *Guiding Policies & Procedures (2020):* recommended steps to facilitate international cooperation to developing countries.

- Enhanced role of UNCTAD as a facilitator.

- Agreed by consensus and approved by the Eighth United Nations Conference on Competition and Consumer Protection, October 2020.

Competitive Neutrality is a key element of a Competition law and policy

- **Competition law and Policy: broad horizontal scope, applicable across all economic sectors.**
- **Competition law ideally applicable to all enterprises involved in economic activities, including State-owned Enterprises (SOEs).** See **UN Set on Competition** definition of “enterprises” Section B(i)3; **UNCTAD Model Law on Competition, Part 2 – Commentaries**, Revised chapter II (2017) – (TD/B/C.I/CLP/L.8, 17 May 2017).
- **Competitive neutrality is the recognition that significant government business activities which are in competition with the private sector should not have a competitive advantage or disadvantage simply by virtue of government ownership and control.**

UNCTAD RESEARCH PARTNERSHIP PLATFORM COMPETITIVE NEUTRALITY AND ITS APPLICATION IN SELECTED DEVELOPING COUNTRIES

Project Coordinator Deborah Healey, 2014

(https://unctad.org/en/PublicationsLibrary/ditcclpmisc2014d1_en.pdf)



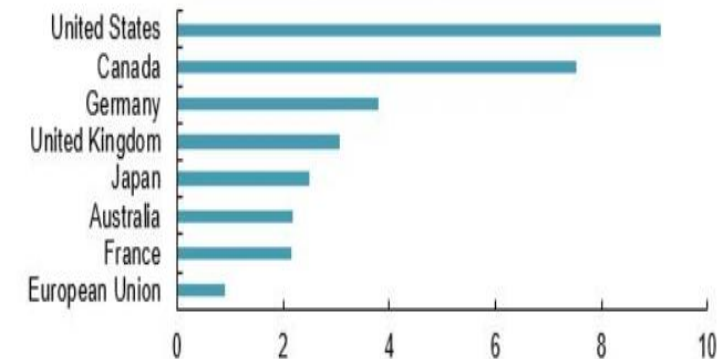
Competitive Neutrality vis-à-vis developing countries



- **Important for developing countries** seeking to make full use of Competition law and policy towards significant economic growth and inclusive and sustainable development: **privatization and deregulation processes should involve regulatory reforms and embrace a pro-competitive approach.**
- **Closely linked with Public Procurement and State Aid policy**, targeting all public measures using public funds which may confer a discriminatory competitive advantage to companies, through subsidies and grants, tax exemptions, loans at preferential interest rates, State guarantees.
- **Involvement of Competition Authorities' advisory role regarding new legislation/regulation and economic reforms.**

○ **A timely issue in times of COVID-19, due to the increased role of Governments to encourage economic recovery**

Figure 2 - Estimated fiscal stimulus measures, select advanced economies, third quarter of 2020 through fourth quarter 2021 (Per cent of GDP)

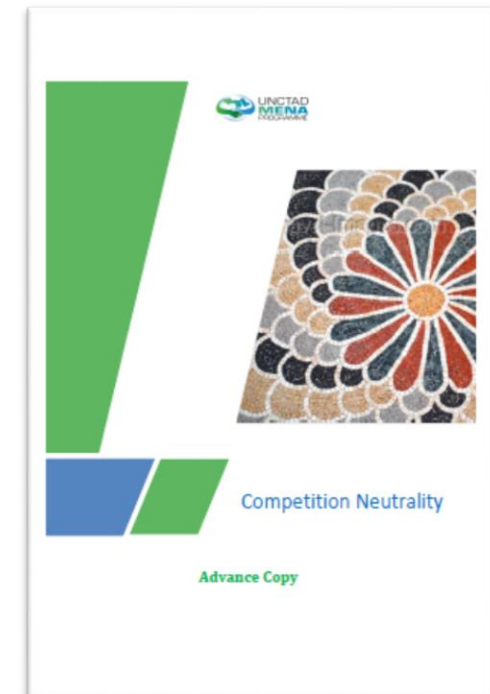


Source: UNCTAD secretariat calculations based on national sources. Note: Fiscal estimates are based on above-the-line fiscal spending and tax stimulus measures. Accelerated spending and short-term deferral measures, i.e. tax payments deferred from one quarter or month to the next, are not included in these estimates.



UNCTAD MENA Technical Cooperation programme: *Regional integration through improved Competition and Consumer policies* (2015-2018)

- **Dissemination of Competitive neutrality to assist Governments to mainstream Competition principles**
- **A report was drafted, focusing on the beneficiaries' experience, and presented and discussed with Competition experts, sectoral regulators' experts and other Governmental bodies' officials (2017 and 2018)**



UNCTAD MENA Technical Cooperation programme - Report on Competitive Neutrality recommendations

1. **Streamlining the operational form of Government business: separation of SOEs from Government; establish independent sectoral regulators; enforcing non-preferential treatment;**
2. **Identifying the direct costs of any given function: professionalize high level management for efficient operations;**
3. **Achieving a commercial rate of return: aim for profitable SOEs under normal operational conditions;**
4. **Accounting for public service obligations: equal opportunities for fair compensation;**
5. **Aiming at the neutrality of taxes and subsidies: non-discrimination across all businesses;**
6. **Regulatory neutrality: no exemptions unless temporarily and objectively justified;**
7. **Ensuring debt and direct subsidies neutrality: interaction with State Aid and Competition Authorities' advisory role;**
8. **Ensuring public procurement neutrality: non-discriminatory, adjudications for quality and efficiency reasons;**
9. **Establishing a CN transparency and redress procedure: for awareness raising and complaints follow up.**

- **Competitive Neutrality implementation interacts with economic and regulatory reforms: it requires joint work between Governments, Competition Authorities, sectoral regulators;**

- **Competition advocacy to the private sector should involve Competitive Neutrality awareness raising, and may justify specific support to micro and SMEs;**

- **Technical cooperation is necessary for the engagement of all relevant stakeholders.**

- **UNCTAD provides the largest intergovernmental forum for dialogue and international cooperation in all areas of its mandate, including Competition law and policy, focusing on developing countries.**

It stands ready to work with other UN and international organizations to promote better understanding and increased knowledge in key issues such as Competitive Neutrality.





THANK YOU!

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<https://unctad.org/Topic/Competition-and-Consumer-Protection>

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

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